

MICHIGAN SUPREME COURT



Office of Public Information

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RULES PROPOSED TO SPEED APPEALS IN TERMINATION OF PARENTAL RIGHTS CASES; SUPREME COURT CALLS FOR PUBLIC COMMENT

LANSING, MI, July 15, 2003 – Proposed court rule amendments, aimed at shortening the time for appeals in termination of parental rights cases, were published today by the Michigan Supreme Court.

The Court is calling for public reaction to the proposed amendments to Michigan Court Rules (MCR) 3.977 and 7.204. The changes were recommended by the Dependency Appeals Work Group of the Michigan Court of Appeals, which issued its final report in May 2003. Dependency appeals are defined as appeals that involve termination of parental rights or a dispute over child custody. The Court of Appeals formed the work group in September 2002 at the Supreme Court's direction.

In a November 2002 report, the work group stated that "The Court of Appeals faces a serious problem with respect to the length of time it takes to receive and resolve dependency appeals." In 2001, on average, such appeals were disposed of in 325 days from filing in the Court of Appeals. By the end of the first quarter of 2003, the Court of Appeals cut the time for dependency appeals to an average of 279 days. The work group's May 2003 final report, while taking account of this progress, recognizes that "the overall average time to disposition is still not acceptable."

Court of Appeals Chief Judge William C. Whitbeck, a member of the work group, said the proposed amendments to MCR 3.977 and 7.204 "all arise from one basic fact: In every dependency appeal, a child is waiting and that child should not wait a day longer than is absolutely necessary. Our goal, therefore, is to resolve these dependency appeals as quickly as possible. Anything short of that is, in our view, simply unacceptable."

Under MCR 3.977, birth parents who wish to appeal a trial court's decision terminating their parental rights, but who cannot afford an attorney, may ask the trial judge to appoint an attorney for them. The proposed changes shorten the deadline for requesting the appointment of counsel from 21 to 14 days. In addition, the changes would impose a new 14-day deadline for the trial judge to enter an order appointing counsel. The chief judge of the court would "bear primary responsibility for ensuring that the appointment is made within the deadline," the rule

proposal states.

Another change calls for a new subrule to MCR 3.977 that would have the trial court's order appointing counsel also function as the claim of appeal. Trial courts would use a single form, to be approved by the State Court Administrative Office, as a combined order of appointment, trial court transcript order, and claim of appeal. The trial court "must immediately send" the form to the Court of Appeals, accompanied by "a copy of the judgment or order being appealed, and a copy of the complete register of actions in the case." The staff comment to the rule states that the proposal "is designed to substantially accelerate the commencement of appeals by having the appointment order also act as a claim of appeal in cases in which the request for a lawyer was timely." The appointed attorney is not required to file anything more to perfect the claim of appeal. The staff comment further states that "Defects in the filing of the claim of appeal in the Court of Appeals must be corrected by the trial court but do not affect the validity of the filing."

Another change to MCR 3.977 states that the trial court "must" order transcripts for the appeal "at public expense" if the court determines that the parent is not able to pay for the transcripts. The current version of the rule states that the court "may" do so.

A proposed change to MCR 7.204 tracks changes to MCR 3.977 by shortening the time to request appointment of appellate counsel in civil cases to 14 from 21 days.

The Supreme Court will hold a public hearing on the proposed court rule amendments before making a final decision. The hearing has not yet been scheduled. The schedule and agendas for public hearings are posted on the Court's website, www.courts.michigan.gov/supremecourt.

In addition, interested persons may send comments to the Clerk of the Supreme Court in writing; the deadline for doing so is November 1, 2003. Comments may be e-mailed to MSC_clerk@courts.mi.gov; letters may be sent to P.O. Box 30052, Lansing, Michigan 48909. Please refer to ADM File No. 2003-25 when submitting a comment.

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